The only justification asserted by the Examiner for this requirement is that the invention of Group I has "no special technical feature that defined the contribution over the prior art of Castelhano et al. (WO 98/54208)". See the November 5, 2002 Official Action at 4. However, the Examiner's reliance on Castelhano et al. in support of this requirement is clearly misplaced. Castelhano et al. has absolutely no bearing on the patentability of applicants' claims (as will be made clear in the discussion that follows) and thus cannot affect the special technical features which unify the claims.

The fragment cited by the Examiner is PRPLPVAPG. This is not a "variant peptide" within the meaning of claim 2 because all the four reference sequences of claim 1 are 15 amino acids long. The cited fragment is only 9 amino acids long and indeed has only 6 amino acids in common with any of applicants' peptides, i.e. with respect to any of them it has at least (15 minus 6 =) 9 deletions and or substitutions. Claim 2, by contrast, calls for a maximum of 4 substitutions, insertions, or deletions with respect to the reference sequences of claim 1.

Nor is the fragment cited by the Examiner a "fragment of a peptide" within the meaning of claims 5 or 6, because it is not a fragment of the any of the reference sequences of claim 4, i.e. it contains amino acids (the ...APG at the C-terminus) not found in the reference sequences and *ipso facto* can't merely be a fragment of them.

For the sake of completeness it is noted that Castelhano et al. is not even concerned with the same activities as those in the present claims. Hence not only does the cited peptide not meet the structural (sequence) requirements of the claims, but it is also an unsupported assertion on the part of the Examiner that it meets the functional requirement (fibrin fragment E binding modulation).

Even if it were assumed for the sake of argument that Castelhano et al. established a lack of unity between the 4 sequences of claim 1 (which applicants vigorously dispute), the restriction requirement would nevertheless be improper. It is enshrined in the PCT Rules that a product can be claimed alongside dependent claims to uses of that product (PCT Rule 13.4), even if those uses are independently inventive. The product is the special technical feature which unifies the claims. Thus, for example, if SEQ ID No. 1 and variants were elected in Group I, applicants are entitled explicitly under the PCT Rules to combine these with Groups XXV and XXIX.

Furthermore, it is clear that the peptide claims (e.g. Group I) and nucleic acids (Group V) have unity of invention because they share a special technical relationship in that the sequence of amino acids in the peptide is an essential structural element of the peptides which is encoded by an **exactly corresponding sequence of codons** in the nucleic acids. Thus the two groups are technically related, and clearly fall within the scope of the examples given in Annex B in the PCT administrative

instructions, or §1850 of the M.P.E.P.

It is further submitted that the peptides (Group I) and antibodies (Group IX) are also unified. Essentially the only part of an antibody which distinguishes it from the "prior art" is its variable region or antigen-binding site. This is an essential structural element of the antibody. The antigen-binding site of the antibodies of Group IX will complement precisely the structure of the epitopes of the peptides of Group I used to raise them and hence the structure of the peptide is again the unifying technical feature. The same is true of the dependent use claims of the antibody, for the reasons given above (PCT Rule 13.4).

It is particularly noteworthy, in connection with the present restriction requirement, that there was no lack of unity objection between the specific peptides, variant peptides, fragments, and fusion peptides of claims 1-18, 21-24 and 27-37 during the international proceedings under the PCT. Accordingly, it should be evident that the present claims satisfy the unity of invention principle set forth in 37 C.F.R. §1.475.

As the November 5, 2002 Official Action fails to comply with established United States Patent and Trademark Office practice for requiring restriction in a U.S. National Stage application under 35 U.S.C. §371, it is respectfully submitted that this requirement should be reconsidered and withdrawn.

In order to be fully responsive to the restriction requirement in this case, applicants hereby elect the subject

matter of Group I, i.e. claims 1-11, 21, 30-32 and 36 directed to a peptide of SEQ ID No. 1, variants, fragments and the fusion peptide.

This election is made without prejudice to applicants' right to file one or more continuing applications, as provided in 35 U.S.C. §121, on the subject matter of any claims finally held withdrawn from consideration in this application.

Early and favorable action on the merits of this application is respectfully requested.

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